

## **REMARKS**

Applicant respectfully requests reconsideration and allowance of the subject application.

### **35 U.S.C. § 101**

Claims 1-10 stand rejected under 35 U.S.C. §101 as being directed to a process that does not produce a concrete and tangible result. Independent claims 1 and 6 have been amended to overcome this rejection. As amended, claims 1 and 6 produce a concrete and tangible result that satisfies 35 U.S.C. §101.

Applicant respectfully requests that the §101 rejections be withdrawn.

### **35 U.S.C. § 112**

Claims 2, 6-9, 13 and 16-21 stand rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The identified claims have been amended to overcome this rejection. Applicant submits that the amended claims satisfy the requirements of 35 U.S.C. §112, second paragraph.

Applicant respectfully requests that the §112 rejections be withdrawn.

### **35 U.S.C. § 103**

Claims 1, 3-5, 11, 12, 14, 15, 22 and 23 stand rejected under 35 U.S.C. §103(a) as being unpatentable over a Newsbytes article (UK – Web-Based Virtual Stock Market Game A Success, Newsbytes (July 17, 1997)) (hereinafter “UK”) in view of a Microbanker article (Software introductions, Microbanker, vol. 15, no. 3

(March 1995)) (hereinafter “Microbanker”). Applicant respectfully submits that claims 1, 3-5, 11, 12, 14, 15, 22 and 23 are patentable over UK in view of Microbanker.

UK discloses a game in which subscribers pay an entry fee, in return for which they are given a “virtual portfolio” to spend on the stocks and shares they think will win them the most money at the end of the game. Winners with the highest valued portfolio will receive awards. Thus, the UK reference discloses a game that focuses on the total portfolio value of the subscribers.

Microbanker discloses “PAM for Mutual Funds -- accounting -- provides management and tracking of mutual fund portfolios. It provides the high efficiency processing needed to meet the 5:30 NASDAQ deadline for reporting NAV.” Microbanker pages 2-3.

Claim 1, as amended, recites:

A method comprising:  
maintaining an individual investor’s portfolio;  
determining a performance metric that objectively measures performance of the investor’s portfolio despite non-uniform changes to the investor’s portfolio that affect value of the investor’s portfolio but not performance;  
calculating an account value associated with the individual investor’s portfolio using the performance metric; and  
storing the calculated account value.

The UK reference fails to disclose or suggest “... determining a performance metric that objectively measures performance of the investor’s portfolio despite non-uniform changes to the investor’s portfolio that affect value of the investor’s

portfolio but not performance....” The UK reference focuses on the total portfolio value of the subscribers but does not mention a performance metric that objectively measures performance as recited in claim 1.

As discussed in the present application, the value of the performance metric does not change in response to changes that do not affect the performance of the portfolio. Although these changes may affect, for example, the cash value of the portfolio, the performance is unaffected. The Examiner is directed to pages 16-18 of the present application, which discuss several examples of changes that do not affect the performance of the portfolio. For example, if a cash deposit is made to the portfolio, the cash value of the portfolio changes. However, the performance of the portfolio has not changed as a result of the cash deposit, so the performance metric is unchanged. Thus, the performance metric objectively measures portfolio performance despite this type of change that affects the value of the portfolio. The UK reference fails to disclose or suggest this manner of handling of changes to an investor’s portfolio.

The Microbanker reference fails to disclose or suggest “... determining a performance metric that objectively measures performance of the investor’s portfolio despite non-uniform changes to the investor’s portfolio that affect value of the investor’s portfolio but not performance....” (Emphasis Added) as recited in claim 1. Although Microbanker mentions the ability to evaluate fund performance based on user-defined goals, there is no mention of determining a performance metric that objectively measures performance despite non-uniform changes to the investor’s portfolio that affect value of the investor’s portfolio but not performance, as recited in claim 1. Additionally, nothing in Microbanker suggests

such a performance metric that objectively measures performance as recited in claim 1. As discussed above, in the present invention, changes that do not affect portfolio performance do not affect the performance metric. Thus, the performance metric objectively measures portfolio performance despite changes (such as cash deposits) that affect the value of the portfolio. The Microbanker reference is silent as to this manner of handling changes to an investor's portfolio.

Accordingly, neither UK nor Microbanker discloses or suggests the above-discussed element of claim 1. Further, the combination of UK and Microbanker fails to disclose "... determining a performance metric that objectively measures performance of the investor's portfolio despite non-uniform changes to the investor's portfolio that affect value of the investor's portfolio but not performance...." as recited in claim 1. Since neither reference discusses or suggests the above-identified limitation, the combination of references does not teach or suggest the method of claim 1.

Thus, for at least these reasons, Applicant respectfully submits that claim 1 is allowable over UK in view of Microbanker.

Given that claims 3-5 depend from amended claim 1, Applicant respectfully submits that claims 3-5 are likewise allowable over UK in view of Microbanker for at least the reasons discussed above.

Claim 11 recites:

A system comprising:

a portfolio analyzer to maintain an individual investor's portfolio, the investor's portfolio having a value and an associated number of portfolio shares; and

a module to determine performance of the investor's portfolio as a function of the value and the associated number of portfolio shares.

The UK reference fails to disclose or suggest “a portfolio analyzer to maintain an individual investor’s portfolio ... and a module to determine performance of the investor’s portfolio as a function of the value and the associated number of portfolio shares.” as recited in claim 11. The UK reference does not mention a module that determines performance of the investor’s portfolio as a function of the value and the associated number of shares.

Further, the Microbanker reference fails to disclose or suggest “a portfolio analyzer to maintain an individual investor’s portfolio ... and a module to determine performance of the investor’s portfolio as a function of the value and the associated number of portfolio shares.” as recited in claim 11. Although the Microbanker reference mentions the ability to evaluate fund performance, the reference is silent as to a portfolio analyzer and a module of the type recited in claim 11. Further, there is no suggestion in Microbanker to provide a portfolio analyzer and a module as recited in claim 11.

Accordingly, neither UK nor Microbanker discloses or suggests the above-discussed element of claim 11. Further, the combination of UK and Microbanker fails to disclose the system recited in claim 11. Since neither reference discusses or suggests the above-identified limitation, the combination of references fails to teach or suggest the system of claim 11. Thus, for at least these reasons, Applicant respectfully submits that claim 11 is allowable over UK in view of Microbanker.

Given that claims 12, 14 and 15 depend from amended claim 11, Applicant respectfully submits that claims 12, 14 and 15 are likewise allowable over UK in view of Microbanker for at least the reasons discussed above.

Claim 22 recites:

An architecture comprising:  
multiple investor computing devices; and  
an investment services server to handle requests for investment services from the investor computing devices, the investment services server tracking investment accounts for individual investors and objectively measuring performance of the investment accounts despite non-uniform changes to the investment accounts that affect value of the investment account but not performance.

The UK reference fails to disclose or suggest “the investment services server tracking investment accounts for individual investors and objectively measuring performance of the investment accounts despite non-uniform changes to the investment accounts that affect value of the investment account but not performance.” as recited in claim 22. The UK reference does not mention any system for objectively measuring performance.

Further, the Microbanker reference fails to disclose or suggest “the investment services server tracking investment accounts for individual investors and objectively measuring performance of the investment accounts despite non-uniform changes to the investment accounts that affect value of the investment account but not performance.” as recited in claim 22. Although Microbanker mentions the ability to evaluate fund performance, the reference does not mention an investment services server of the type recited in claim 22. Additionally, nothing in Microbanker suggests such an investment services server that operates in the manner recited in claim 22. As discussed above with reference to claim 1, the Microbanker reference fails to disclose or suggest objectively measuring

performance of investment accounts despite changes to the investment accounts that affect value but not performance.

Accordingly, neither UK nor Microbanker discloses or suggests the above-discussed element of claim 22. Further, the combination of UK and Microbanker fails to disclose the architecture recited in claim 22. Since neither reference discusses or suggests the above-identified limitation, the combination of references fails to teach or suggest the architecture of claim 22. Thus, for at least these reasons, Applicant respectfully submits that claim 22 is allowable over UK in view of Microbanker.

Given that claim 23 depends from claim 22, Applicant respectfully submits that claim 23 is likewise allowable over UK in view of Microbanker for at least the reasons discussed above.

Claims 2, 13 and 19-21 stand rejected under 35 U.S.C. §103(a) as being unpatentable over UK in view of Microbanker and U.S. Patent No. 5,262,942 to Earle (hereinafter “Earle”). Applicant respectfully submits that claims 2, 13 and 19-21 are patentable over UK in view of Microbanker and Earle.

As discussed above with respect to claim 1, the combination of UK and Microbanker fails to teach or suggest the method as recited in claim 1. Earle discloses a financial transaction network that maintains a number of mutual fund portfolios operating in different currencies. Claim 2, as amended, recites in part “adjusting the number of portfolio shares in response to portfolio events, wherein the portfolio events change a financial value of the investor’s portfolio but do not affect a percentage change in the performance of the investor’s portfolio”

(Emphasis Added). The portion of Earle cited in the Office Action (e.g., col. 1, lines 19-50) discloses a basic mutual fund operation of calculating a NAV at the end of a day. However, this basic mutual fund operation does not disclose or suggest adjusting the number of portfolio shares in response to portfolio events such that these events change a financial value of the portfolio but do not affect a percentage change in the financial value of the portfolio. Thus, the method of claim 2 allows a portfolio value to be changed without affecting the portfolio's performance tracking. This manner of handling changes to a portfolio is different from the basic mutual fund operation discussed in Earle and is not suggested by the Earle reference. Further, the combination of Earle with UK and Microbanker fails to teach or suggest the elements of claim 2. Thus, for at least these reasons, Applicant respectfully submits that amended claim 2 is allowable over UK in view of Microbanker and Earle.

Claim 13, as amended, contains a limitation similar to that of claim 2 discussed above. Thus, for at least the reasons discussed above with reference to claim 2, Applicant submits that amended claim 13 is allowable over UK in view of Microbanker and Earle.

Claim 19, as amended, recites "detect portfolio events that change a value of the investor's portfolio, wherein the portfolio events do not affect performance of the investor's portfolio; and upon occurrence of a portfolio event, adjust the number of portfolio shares to maintain a constant performance metric.". The combination of UK and Microbanker fails to teach or suggest portfolio events that change a value of the investor's portfolio such that the events do not affect performance of the investor's portfolio. Further, the combination of UK and



Microbanker fails to teach or suggest adjusting the number of portfolio shares to maintain a constant performance metric. As discussed above with reference to claim 2, the Earle reference does not disclose or suggest portfolio events that change a value of the investor's portfolio such that the events do not affect performance of the investor's portfolio as recited in claim 19. Additionally, Earle fails to disclose or suggest adjusting the number of portfolio shares to maintain a constant performance metric. Accordingly, Applicant submits that the combination of Earle with UK and Microbanker fails to teach or suggest the elements of claim 19. Thus, for at least these reasons, Applicant respectfully submits that amended claim 19 is allowable over UK in view of Microbanker and Earle.

Given that claims 20-21 depend from claim 19, Applicant respectfully submits that claims 20-21 are likewise allowable over UK in view of Microbanker and Earle for at least the reasons discussed above.

Claims 6-10 and 16-18 stand rejected under 35 U.S.C. §103(a) as being unpatentable over UK in view of Earle. Applicant respectfully submits that claims 6-10 and 16-18 are patentable over UK in view of Earle.

Claim 6, as amended, recites:

A method comprising:  
initially assigning an arbitrary number of portfolio shares to an individual investor's portfolio;  
determining a performance metric associated with the investor's portfolio;  
adjusting the number of portfolio shares in response to a portfolio event, wherein the portfolio event changes a financial value of the investor's portfolio but does not affect performance of the investor's

portfolio, and wherein the number of portfolio shares are adjusted such that the performance metric does not change in response to the portfolio event; deriving an investor's total account value by dividing a total value of the investor's portfolio by a current number of portfolio shares; and displaying the investor's total account value.

The UK reference fails to disclose or suggest "adjusting the number of portfolio shares in response to a portfolio event, wherein the portfolio event changes a financial value of the investor's portfolio but does not affect performance of the investor's portfolio" as recited in claim 6. For example, see the discussion above with respect to claim 1. Further, UK fails to disclose or suggest "deriving an investor's total account value by dividing a total value of the investor's portfolio by a current number of portfolio shares" as recited in claim 6.

As discussed above with respect to claim 2, the Earle reference fails to disclose or suggest "adjusting the number of portfolio shares in response to portfolio events, wherein the portfolio events change a financial value of the investor's portfolio but do not affect performance of the investor's portfolio" as recited in claim 6.

Accordingly, neither UK nor Earle discloses or suggests the elements of claim 6. Further, the combination of UK and Earle fails to disclose or suggest the method recited in claim 6. Since neither reference discusses or suggests the above-identified limitation, the combination of references fails to teach or suggest the method of claim 6. Thus, for at least these reasons, Applicant respectfully submits that amended claim 6 is allowable over UK in view of Earle.

Given that claims 7-10 depend from claim 6, Applicant respectfully submits that claims 7-10 are likewise allowable over UK in view of Earle for at least the reasons discussed above.

Claim 16, as amended, contains limitations similar to those discussed above with respect to claim 6. In particular, claim 16 recites “means for adjusting the number of portfolio shares in response to portfolio events, wherein the portfolio events change a financial value of the investor’s portfolio but do not affect performance of the investor’s portfolio”. Thus, for at least these reasons, Applicant respectfully submits that amended claim 16 is allowable over UK in view of Earle.

Given that claims 17-18 depend from claim 16, Applicant respectfully submits that claims 17-18 are likewise allowable over UK in view of Earle for at least the reasons discussed above.

Claim 24 stands rejected under 35 U.S.C. §103(a) as being unpatentable over UK in view of Microbanker and Official Notice. Applicant respectfully submits that claim 24 is patentable over UK in view of Microbanker and Official Notice.

As discussed above, Applicant respectfully submits that claim 22 is allowable over UK in view of Microbanker. Claim 24 depends from claim 22 and includes the limitations of claim 22. Thus, Applicant respectfully submits that claim 24 is allowable over UK in view of Microbanker. Although the Office Action alleges that “communicating with an internet server via a wireless network is old and well known in the art”, such allegation fails to remedy the deficiencies in the teaching of UK and Microbanker. For example, this allegation fails to address the language of claim 22, “the investment services server tracking investment accounts for individual investors and objectively measuring

performance of the investment accounts despite non-uniform changes to the investment accounts that affect value of the investment account but not performance.” Thus, for at least these reasons, Applicant respectfully submits that claim 24 is allowable over UK in view of Microbanker and Official Notice.

Claims 2, 13 and 19-21 also stand rejected under 35 U.S.C. §103(a) as being unpatentable over UK in view of Microbanker, Earle and Higgins (Higgins, J.M. Janus Capital’s John Schreiber, Broadcasting and Cable, vol. 128, no. 34 (August 17, 1998), p. 56). Applicant respectfully submits that claims 2, 13 and 19-21 are patentable over UK in view of Microbanker, Earle and Higgins.

As discussed above, Applicant respectfully submits that amended claim 2, amended claim 13, and amended claim 19 are allowable over UK in view of Microbanker and Earle. The Higgins reference fails to remedy the deficiencies of UK, Microbanker and Earle.

Regarding claim 2, Higgins fails to disclose or suggest “adjusting the number of portfolio shares in response to portfolio events, wherein the portfolio events change a financial value of the investor’s portfolio but do not affect a percentage change in the performance of the investor’s portfolio” as recited in amended claim 2. Additionally, the combination of UK, Microbanker, Earle and Higgins fails to teach or suggest the elements of claim 2. Thus, for at least these reasons, Applicant respectfully submits that amended claim 2 is allowable over UK in view of Microbanker, Earle and Higgins.

Claim 13, as amended, contains a limitation similar to that of claim 2 discussed above. Thus, for at least the reasons discussed above with reference to

claim 2, Applicant submits that amended claim 13 is allowable over UK in view of Microbanker, Earle and Higgins.

Claim 19, as amended, recites “detect portfolio events that change a value of the investor’s portfolio, wherein the portfolio events do not affect performance of the investor’s portfolio”. The combination of UK, Microbanker and Earle fails to teach or suggest portfolio events that change a value of the investor’s portfolio such that the events do not affect performance of the investor’s portfolio. As discussed above with reference to claim 2, the Higgins reference does not disclose or suggest portfolio events that change a value of the investor’s portfolio such that the events do not affect performance of the investor’s portfolio as recited in claim 19. Further, the combination of Higgins with UK, Microbanker and Earle fails to teach or suggest the elements of claim 19. Thus, for at least these reasons, Applicant respectfully submits that amended claim 19 is allowable over UK in view of Microbanker, Earle and Higgins.

Given that claims 20-21 depend from claim 19, Applicant respectfully submits that claims 20-21 are likewise allowable over UK in view of Microbanker, Earle and Higgins for at least the reasons discussed above.

### **New Claims**

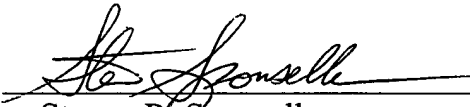
New claims 25-31 are added herein. Applicant submits that these new claims are allowable for at least the reasons discussed herein.

**Conclusion**

Claims 1-31 are in condition for allowance. Applicant respectfully requests reconsideration and issuance of the subject application. Should any matter in this case remain unresolved, the undersigned attorney respectfully requests a telephone conference with the Examiner to resolve any such outstanding matter.

Respectfully Submitted,

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